

Public Records Act applies to all devices

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A recent Washington State Supreme Court Ruling makes it clear that public business, whatever its cyber form, is still the people's business.

By [Seattle Times editorial board](#)

The Seattle Times

The Washington Public Records Act has a plainspoken wisdom:

“The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.”

It's the “right to decide” part that often befuddles politicians.

On Thursday, the Washington State Supreme Court ruled unanimously that the Public Records Act extends to government-related text messages on Pierce County Prosecutor Mark Lindquist's private phone. Public business, whatever its cyber form, is still the people's business.

Pierce County ponied up more than \$300,000 to litigate the case so, please, let it be the last word: Public officials can't shimmy around the Public Records Act by switching to private devices such as cellphones, nor can they feign ignorance of a law that's been on the books since before the Mariners and the Seahawks existed.



Illustration by Donna Grethen / Op Art

Thursday's decision was a natural extension of a 2010 ruling that the Public Records Act applied to records on a personal computer. As the court ruled then, "if government employees could circumvent the PRA by using their home computers for government business, the PRA could be drastically undermined."

Precisely. Personal computers, private email accounts, text messages. The court makes clear the definition of a public record includes the work product of public agency employees regardless of the device used to produce it. In court, Pierce County tried to suggest that employees had to use agency property exclusively to meet the definition.

That nonsense argument didn't fly with the justices.

Of course, public officials can avoid the heartburn by not conducting public business on private devices. But that may be too simple.

"Information technology changes. Human nature does not."

Already cities and counties around Washington have policies about mixing private cellphones and public records. Public employees can sync work-related emails, texts and documents to an agency server, for example. It's a policy Pierce County must now adopt.

The court also discredits the county's alarmist claim that every work-related text might somehow constitute a public record. Texting a spouse about working late wouldn't meet the definition, for example. There are reasonable limits, and that's something Lindquist, in his best-of-all-possible worlds' take on his legal shellacking, claims as a victory.

Today, one challenge for government watchdogs is tracking the latest tech gizmos and information trends. As Snohomish County authorities learned during the former Executive Aaron Reardon scandal, use of Dropbox and the cloud muddles oversight by making it much easier to evade detection.

The Public Records Act was conceived as a broad mandate, in the era of rotary phones and rabbit-ear TV. Information technology changes. Human nature does not.

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